

r))

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3827 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

D B CHAUHAN

Appearance:

MR HARDIK C RAWAL for Petitioner

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 27/10/1999

ORAL JUDGEMENT

Learned Advocate Mr.Raval is appearing for the
petitioner. Nobody is present for the respondent.

The facts of the present case in short are that
the respondent was working as a Conductor with the
petitioner Corporation. ON 9.9.81, while he was on duty

on the route between Anand to Borsad his bus was checked and it was found that the respondent had not issued ticket to some passengers. It was also found that the cash found with the respondent workman was excessive. The respondent was therefore served with the chargesheet and after completion of departmental inquiry he was dismissed from service. The said dismissal order was challenged by the respondent workmen before the Labour Court, Nadiad by filing Reference No. 328/94. The Labour Court has considered the gravity of misconduct and has come to the conclusion that the misconduct is found to be proved and the findings are legal and proper but the Labour Court was of the opinion that the punishment imposed upon the Workman was harsh and unjustified and disproportionate to the guilt established against the workman and therefore under its judgement and award dated 7th March, 1988, the Labour Court directed the petitioner Corporation to reinstate the respondent workman in service with continuity of service but without back wages, which award has been challenged by the petitioner workman before this Court by filing this petition.

This Court, while admitting this petition has not granted any interim relief and therefore by this time the respondent workman must have been reinstated in service. The Labour Court has considered the documentary evidence produced before it by the parties. Mr.Raval has submitted that the workman must have been reinstated in service by this time since no interim relief against reinstatement was granted by this Court. According to Mr.Raval, some punishment should be imposed upon the workman for the misconduct committed by him. According to him denial of backwages cannot be said to be punishment sufficient in view of his seriousness of charge of not issuing tickets after collecting fare from the passengers.

I have considered the submissions of Mr.Raval. I am of the opinion that in view of the charge levelled against the respondent workman, the Labour Court ought to have imposed some punishment while directing the petitioner Corporation to reinstate the workman. I am also of the opinion that the denial of backwages cannot be said to be sufficient punishment in view of the charge levelled against the workman. I am of the opinion that while confirming the impugned award passed by the Labour Court, it would be just and proper to direct the petitionr Corporation to impose punishment of stoppage of one annual increment with cumulative effect from 1.1.99 so that it may not result into reduction of pay

packet of the respondent workman and there may not be any question of recovery pursuant to stoppage of one annual increment with future effect. Accordingly, this petition is partly allowed. The impugned award of the Labour Court is confirmed. Petitioner Corporation is further directed to stop one annual increment of the respondent workman with future effect from 1.1.99. Rule is made absolute to the above extent with no orders as to costs.

vyas